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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,620	04/17/2001	Yoshihiro Takashimizu	1086.1145	7539

21171 7590 10/20/2005

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EXAMINER

DIVINE, LUCAS

ART UNIT PAPER NUMBER

2624

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/835,620	<b>Applicant(s)</b> TAKASHIMIZU, YOSHIHIRO	
	<b>Examiner</b> Lucas Divine	<b>Art Unit</b> 2624	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: 3, 5, 6 and 16.  
 Claim(s) rejected: 7, 8, 11-14 and 18-24.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_.

  
**KING Y. POON**  
**PRIMARY EXAMINER**

Continuation of 3. NOTE: newly added claim limitations ".... dot ...." found in claims 3, 5, 6, 11, 14, 16, 18, 19 "...preventing..." found in claims 13, 18, 19 "... first ... a second..." found in claim 21 as well as canceling limitations in claims 7, 14, 18, 19 raise new issues that would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because: The objections and rejections previously stated still stand. Further, items 9 and 12b were not addressed in after final amendment. Item 10 was addressed, but is not persuasive as discussed in Attachment.

***Attachment To Advisory Action***

With respect to applicant's argument regarding the term substantially (item 10) and that it is understood by those skilled in the art.

In reply, amended claims 7 and 18 recite 'substantially vertical vertical-line patterns' and 'substantially horizontal horizontal-line patterns'. These limitations are vague and indefinite because one of ordinary skill would not know what substantially vertical or horizontal would be and the specification fails to clearly point out the distinction between being substantially vertical or horizontal and not. While Figs. 31, 32, and 33 show examples of vertical and horizontal line patterns, they are not definite as to what types of patterns are included in the phrase 'substantially vertical or horizontal'.

An example of why substantially is a vague and indefinite term is that *a person does not know where the difference in horizontal or vertical is between substantial and non-substantial*. Is a 10° horizontal line substantially horizontal? 20°? 25°? 90°? One skilled in the art can guess, but if a guess must be set forth, the claim is not clear or definite.

The closest dictionary definition (from American Heritage College Dictionary, page 1376) for substantial in a phrase 'substantially horizontal' could be "**true or real**" or "**ample**" or "**essential**". It is unclear which of these would most apply to the horizontal-lines of applicant. If ample, when is a horizontal line amply horizontal? The cut-off is not clear or definite for the claims. If true, it is unclear if applicant is claiming only horizontal lines that are 'truly' horizontal. If essential, when is a horizontal line essentially horizontal? Is 5° from horizontal still essentially horizontal? The Authoritative Dictionary of IEEE Standards Terms (page 1122) lists substantial as meaning: "**So constructed and arranged as to be of adequate strength and**

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**durability for the service to be performed under the prevailing conditions.”** It is not clear from this definition what is ‘adequate’ or if such a term can be applied to lines. Both the Microsoft Computer Dictionary, fifth edition, and Delmar’s Dictionary of Digital Printing and Publishing (both dictionaries for those in the relevant art) do not include a definition, thus indicating the term ‘substantially’ is not commonly used in the relevant art.

Further, even if the language cited in the remarks of After-Final Amendment were placed into the claims, it would still be indefinite. What is essentially a vertical line? What is a vertical line to a great extent? There is nothing definite about these terms, further supporting Examiner’s rejection under § 112 (2).

Thus, Examiner submits that one skilled in the art would not clearly or definitely understand this term as applied to the claims and the rejection is maintained.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

09/835,620

Examiner

Lucas Divine

Applicant(s)

TAKASHIMIZU, YOSHIHIRO

Art Unit

2624

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

The amendment document filed on 04 October 2005 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: Claim 6 says (original) and includes amendments.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

